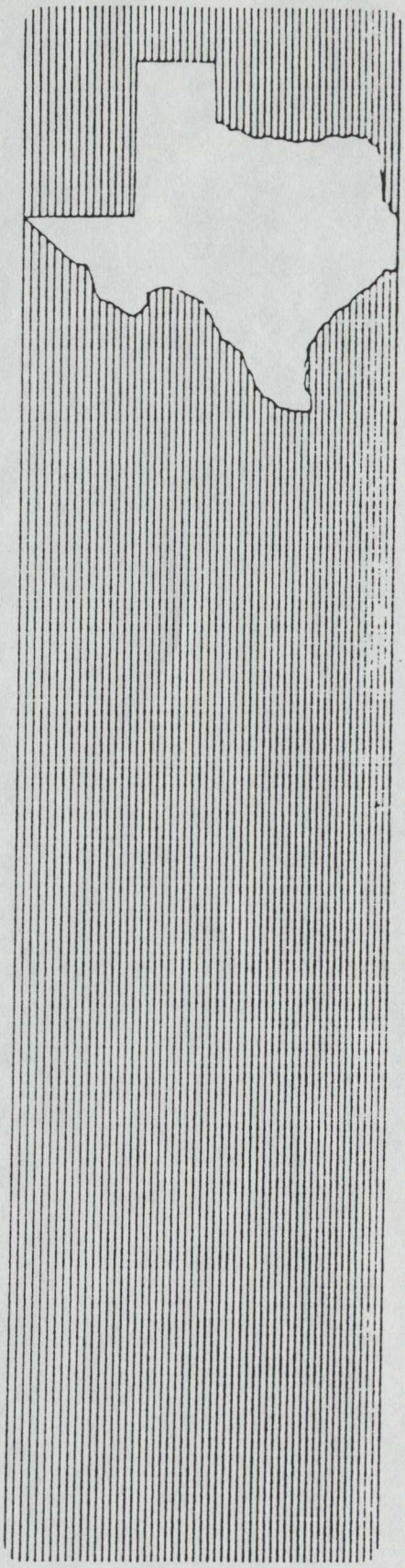

TEXAS SCHOOL LAW BULLETIN

Texas Education Agency
Austin, Texas
1988

§ 11.052. Education for the Visually Handicapped

(a) The Central Education Agency shall develop and administer a comprehensive statewide plan for the education of visually handicapped children under 21 years of age which will ensure that the children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

(b) The Central Education Agency shall be responsible for:

(1) the development of standards and guidelines for all special education services for the visually handicapped which it is authorized to provide or support pursuant to the provisions of this code, including matters related to standards and accreditation;

(2) the supervision of such field offices as might from time to time be established to assist local school districts in serving visually handicapped children more effectively;

(3) the development and administration of special programs for children handicapped by both serious visual loss and serious hearing loss;

(4) the evaluation of special education services provided for visually handicapped children by local school districts and the approval or disapproval of state funding of such services; and

(5) the maintenance of effective liaison between special education programs provided for the visually handicapped by local school districts and related initiatives exerted by the Texas Commission for the Blind, the Department of Mental Health and Mental Retardation, the School for the Blind and other related programs, agencies, or facilities as appropriate.

(c) The minimum components of the comprehensive statewide plan for the education of the visually handicapped shall include but not be limited to the following:

(1) adequate provision for comprehensive diagnosis and evaluation of each school-age child having a serious visual impairment;

(2) procedures, format, and content of the individualized education program for each such visually handicapped child;

(3) emphasis on providing educational services to visually handicapped children in their home communities whenever possible;

(4) methods to assure that visually handicapped children receiving special education services in local school systems receive, prior to being placed in a classroom setting or within a reasonable time thereafter, the compensatory skills training, communicative skills, orientation and mobility training, social adjustment skills, and vocational or career counseling required in order for such students to succeed in classroom settings and to derive lasting benefits of a practical nature from the education obtained in local school systems;

(5) flexibility on the part of the local school systems to meet the special needs of visually handicapped children through:

(A) specialty staff and resources provided by the local school district;

(B) contractual arrangements with other qualified agencies, either public or private;

(C) supportive assistance from regional service centers, field offices of the Central Education Agency, or adjacent school districts;

(D) short-term or long-term services through the Texas School for the Blind or related types of facilities or programs;

(E) other instructional and service arrangements approved by the agency; or

(F) any combination of the foregoing;

(6) a statewide admission, review, and dismissal process;

(7) provision for effective interreaction between the visually handicapped child's classroom setting and his home environment, including provision for parental training and counseling either by local school personnel or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;

(8) a requirement for the continuing education and professional development of local school district staff providing special education services to the visually handicapped;

(9) adequate monitoring and precise evaluation of special education services provided to visually handicapped children through local school districts; and

(10) a requirement that local school districts providing special education services to visually handicapped children develop procedures for assuring that staff assigned to work with the visually handicapped children have prompt and effective access directly to resources available through cooperating agencies in the area, through the Texas School for the Blind, through the Central Media Depository, the Comprehensive Diagnostic and Evaluation Center, sheltered workshops participating in the state program of purchases of blind-made goods and services, and related types of resources.

(d) In developing, administering, and coordinating the statewide plan for the education of the visually handicapped, the agency shall encourage the use of all pertinent resources, whether such resources exist in special education programs or in closely related programs operated by other public or private agencies, through encouraging the development of cooperative working relationships and by assisting in the development of contractual arrangements between local school districts and other organizations, and it shall be the duty of the agency to discourage interagency competition, overlap, and duplication in the development of specialized resources and the delivery of services.

(c) Every eligible blind or visually handicapped student shall receive the educational programs according to an individualized education program which:

(1) shall be developed following adequate diagnosis and evaluation of all pertinent medical, psychological, social, cultural, environmental, and related factors which bear on the individual's ability to benefit from educational programs;

(2) shall be jointly developed by a representative of an educational program who is qualified and experienced in working with individuals handicapped by serious visual loss, by the blind or handicapped individual and his parent or guardian, and by representatives of other public or private organizations providing or capable of providing specialized services which tend to assure greater effectiveness of the educational effort exerted in behalf of the blind or visually handicapped individual;

(3) specifies in measurable terms the goals and objectives to be accomplished as a result of the educational and specialized services to be provided by the various organizations working with the blind or visually handicapped individual;

(4) specifies the time by which each service is to be initiated, the anticipated duration of each service, and the time within which the objectives and goals of the services might be achieved;

(5) contains a procedure and schedule for periodic review and evaluation of progress toward established objectives and goals based on objective criteria and contains a record of the reviews and evaluations;

(6) summarizes the views of the blind or visually handicapped individual, or as appropriate, his parent or guardian or other representative concerning his goals and objectives and the special services being provided;

(7) outlines the obligations undertaken by the individual's family in connection with the individualized education program, including family commitments regarding physical restoration services, procurement of optical aids, and related services;

(8) reflects that the individual has been provided a detailed explanation of the various service resources available to him within the community and throughout the state;

(9) reflects that the individualized education program has been reviewed as frequently as necessary, but in no event less than once annually, by competent educational authorities, representatives of cooperating organizations, the individual, and his parent or guardian and that the individualized education program has been modified, refined, or redeveloped in a manner consistent with determinations made through such review;

(10) describes in detail the arrangements made to provide the blind or visually handicapped individual with orientation and mobility training, instruction in braille or use of large print, other training to compensate for serious visual loss, access to special media, and special tools, appliances, aids, or devices commonly utilized by individuals with serious visual losses; and

(11) sets forth the plans and arrangements made for contacts with and continuing services to the blind or visually handicapped individual during periods in which he might not be involved in school programs.

Acts 1975, 64th Leg., p. 2397, ch. 734, § 23, eff. June 21, 1975. Amended by Acts 1977, 65th Leg., 1st C.S., p. 36, ch. 1, § 20, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 677, ch. 301, §§ 5, 6, eff. May 31, 1979; Acts 1981, 67th Leg., p. 2334, ch. 572, art. II, § 2, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 793, § 28, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 776, § 1, eff. Aug. 31, 1987.

§ 11.102. Supplemental Allowances for Exceptional Expenses of Blind Education

From the Foundation School Fund there shall be made available a special supplemental allowance for each blind student or for each student with a serious visual handicap and another medically diagnosed handicap of a significantly limiting nature, who is receiving special education services through any approved program whatsoever. The amount of the special supplemental allowance for each blind student or for each such multiply handicapped student shall be equivalent to the special allocation for deaf students enrolled in regional day school programs, as authorized by Paragraph (1), Subsection (s), Section 11.10 of this code. The supplemental allowances may be expended only for special services uniquely required by the nature of the student's handicap and may not be used in lieu of educational funds otherwise available under this code and through state or local appropriations.

Acts 1975, 64th Leg., p. 2382, ch. 734, § 10, eff. June 21, 1975.

§ 11.06. Functions and Purposes of Texas School for the Blind

As originally enacted by Acts 1969, 61st Leg., p. 2754, ch. 889, § 1, eff. Sept. 1, 1969, this section read:

"Supervision of the Texas School for the Blind"

"The Central Education Agency shall have exclusive jurisdiction and control over the Texas School for the Blind. It shall be the duty of the commissioner of education to appoint a superintendent for that school, subject to approval by the State Board of Education. Such jurisdiction shall extend but not be limited to the physical assets of said school, and appropriations made for its benefit shall be administered and expended by the agency."

This section was amended by Acts 1975, 64th Leg., p. 2393, ch. 734, § 19.

Acts 1987, 70th Leg., ch. 776, § 8, eff. Aug. 31, 1987, provides:

"Section 19, Chapter 734, Acts of the 64th Legislature, 1975, as amended, is repealed."

Acts 1987, 70th Leg., ch. 776, §§ 2, 10, 12, 13, provide:

"Sec. 2. The Texas School for the Blind is created, funded, and operated for the following functions and purposes:

"(1) to provide a free appropriate public education on a residential basis to:

"(A) blind and visually handicapped children and youth when the Texas School for the Blind is the least restrictive environment consistent with the child's individualized education program and the criteria for admission to and dismissal from the school; and

"(B) multiply handicapped blind children and youth when the Texas School for the Blind is the least restrictive environment consistent with the child's individualized education program and the criteria for admission to and dismissal from the school;

"(2) to provide short-term services to blind children and youth for the purpose of equipping such blind children and youth to be able to benefit from educational services available in their local communities;

"(3) to serve as the primary catalyst within the state for promoting greater excellence and relevance in educational services for blind individuals;

"(4) to serve as a resource to local school programs throughout the state in connection with the efforts of local school programs to serve blind and visually handicapped individuals effectively;

"(5) to serve as a mechanism for training and ongoing staff development for those who are involved in providing educational and closely related services to blind or visually handicapped children and youth in local communities throughout the state;

"(6) to serve as a research and demonstration facility through which new and improved methods of providing educational services are developed to meet the current and future educational needs of blind and visually handicapped children and youth and through which are developed new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve the educational problems of blind and visually handicapped children or youth; and

"(7) to cooperate with any and all other public or private organizations, as appropriate, in more effectively implementing, through effective interagency coordination and vigorous interagency communication, those provisions of the Education Code that relate to the education of the blind and visually handicapped, as well as those provisions of closely related state statutes."

"Sec. 10. The Texas School for the Blind shall establish criteria by administrative rule for admission, review, and dismissal with the cooperation, advice, and technical assistance of the Central Education Agency. Such criteria shall constitute part of the state plan for education of the handicapped and shall constitute the determination by the state of (1) the role of the Texas School for the Blind in providing a free appropriate public education to handicapped children in the state in the least restrictive environment consistent with a child's individualized education program and (2) the role of the Texas School for the Blind in the statewide admission, review, and dismissal process required by Subsection (c), Section 11.052, Education Code."

"Sec. 12. The Central Education Agency may contract with the Texas School for the Blind for consultation and technical assistance to local school districts to assist in the provision of appropriate education for eligible blind and visually impaired students consistent with the student's individualized education program.

"Sec. 13. Each school district shall provide to the superintendent of the Texas School for the Blind the name, address, telephone number, and date of birth of each blind or visually impaired student enrolled in its district. If the parents of the student have consented to the release of the data on the Registration of Visually Handicapped Student form, form SPE-055884, or its successor, the school district shall send a copy of the form to the superintendent of the Texas School for the Blind. The Central Education Agency shall consult with the Texas School for the Blind to develop consent to release of data forms that will allow the release of needed information to the Texas School for the Blind consistent with the requirements of the Federal Family Educational and Privacy Rights Act (20 U.S.C. 1232g). The requirements of this section shall not be limited by Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes)."

§ 11.061. Management and Supervision of the Texas School for the Blind

(a) The Texas School for the Blind is governed by a nine-member board appointed by the governor in accordance with this section and confirmed by the senate. Three of the members must be blind persons, three must each be a parent of a blind person, and three must be experienced in working with blind persons. A person may not serve simultaneously on the board and the Texas Commission for the Blind.

(b) Members of the board serve for terms of six years, with the terms of three members expiring on January 31 of each odd-numbered year.

(c) Members of the board serve without salary but are entitled to reimbursement for actual and necessary expenses incurred in carrying out official duties.

(d) The board shall organize and conduct itself in the same manner as an independent school district board of trustees.

(e) The board shall prepare and present the annual budget for the school to the legislature.

(f) Actions of the board may be appealed in writing to the commissioner of education, who, after due notice to the parties interested, shall hold a hearing and render a decision without cost to the parties involved, but nothing contained in this section shall deprive any party of any legal remedy. The decision of the commissioner may be appealed to a district court in Travis County.

(g) The chief administrative officer of the Texas School for the Blind shall be its superintendent, who is empowered to take all necessary and appropriate action to carry out the functions and purposes of the Texas School for the Blind, pursuant to such general policies as the Board of the Texas School for the Blind might from time to time prescribe, and subject only to a requirement of reporting not less than quarterly to the Board of the Texas School for the Blind as to his activities, progress in the implementation of general policies prescribed by the board, matters of programmatic exceptionality, gen-

eral statistical summaries of services provided by the Texas School for the Blind during the period covered by the report, budget matters of major consequence or concern, and such additional matters as the Board of the Texas School for the Blind might from time to time request to be specifically covered in the superintendent's reports.

(h) The board has exclusive jurisdiction over the physical assets of the school and shall administer and expend appropriations made for the benefit of the school.

Acts 1975, 64th Leg., p. 2394, ch. 734, § 20, eff. June 21, 1975. Amended by Acts 1979, 66th Leg., p. 2133, ch. 827, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2309, ch. 567, § 2, eff. Sept. 1, 1981; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. I, part D, § 2, eff. Sept. 1, 1984; Acts 1985, 69th Leg., ch. 793, § 29, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 776, § 3, eff. Aug. 31, 1987.

Section 4 of the 1979 amendatory act provided:

"The State Board of Education shall nominate and the governor shall appoint members to the governing board for the Texas School for the Deaf and for the Texas School for the Blind immediately after the effective date of this Act."

§ 11.0611. Application of Sunset Act

The governing board of the Texas School for the Blind is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the board is abolished September 1, 1997.

Acts 1985, 69th Leg., ch. 729, § 43, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, § 2.20(30), eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 776, § 4, eff. Aug. 31, 1987.

§ 11.062. Repealed by Acts 1977, 65th Leg., 1st C.S., p. 48, ch. 1, § 35, eff. Sept. 1, 1977

§ 11.063. Staffing and Funding of School for the Blind

(a) With the concurrence of the Board of the Texas School for the Blind, the superintendent is authorized to adopt a salary structure for the Texas School for the Blind with maximum levels not to exceed an amount equivalent to the maximum salary levels of the five local independent school districts offering the highest salaries, and not less than those of the Austin Independent School District, including consideration of employee benefits, being paid to staff employed for the special education of children with severely disabling handicaps.

(b) The funding of the Texas School for the Blind shall consist of:

(1) such amounts as might be specifically appropriated to the Texas School for the Blind by the legislature;

(2) such sums which the Central Education Agency makes available to the Texas School for the Blind pursuant to other provisions of this code;

(3) budgets developed through contracts and agreements;

(4) amounts received through gifts and bequests; and

(5) payments from local school districts in amounts provided by Section 21.507 of this code.

(c) All amounts whatsoever and howsoever received by the Texas School for the Blind are hereby appropriated for expenditure in relation to the functions and purposes of the Texas School for the Blind as set forth in Section 11.06 of this code.

Acts 1975, 64th Leg., p. 2394, ch. 734, § 20, eff. June 21, 1975; Acts 1985, 69th Leg., ch. 239, § 76, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 776, § 5, eff. Aug. 31, 1987.

Section 77 of the 1985 amendatory act provides:

"The amendments to the Education Code in the two immediately preceding sections of this Act apply only to students admitted to the Texas School for the Blind or the Texas School for the Deaf for the fall of 1985 and thereafter."

§ 11.064. Access to Criminal History Information Records

(a) The governing board of the Texas School for the Blind may obtain criminal history information records from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to investigate:

(1) an employee of the school who is engaged in the direct delivery of care to children on the date the board implements this section; or

(2) a person who applies for a position with the school that includes the direct delivery of care to children.

(b) The school may not use the authority granted under this section to harass an employee. The board shall adopt rules to prevent the harassment of an employee through the request and use of criminal records.

(c) The school may discharge from employment an employee of the school who is engaged in the direct delivery of care to children on the effective date of this section who fails to provide a complete set of fingerprints on request. The school may deny employment to a person who applies for a position with the school that includes the direct delivery of care to children who fails to provide a complete set of fingerprints on request.

(d) All criminal history information records received by the board are privileged information. Except on court order or as provided in Subsections (e) and (f) of this section, the board may not release or otherwise disclose the records to any other person or agency.

(e) The board may release to the superintendent of the school information obtained under this section that relates to:

(1) a felony or misdemeanor classified as an offense against the person or the family;

(2) a felony or misdemeanor classified as public indecency; or

(3) a felony violation of any statute intended to control the possession or distribution of a substance included in the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes).

(f) Neither the board or the superintendent of the school may provide an applicant or employee with a copy of the applicant's or employee's criminal history information records obtained under this section. However, the board or the superintendent of the school may disclose to an applicant or employee the dates and places of arrest, the offenses, and the dispositions contained in the applicant's or employee's criminal history information records.

(g) A person commits an offense if the person releases or discloses any information received under this section except as provided by Subsection (e) or (f) of this section. An offense under this subsection is a Class A misdemeanor.

(h) The board shall adopt rules governing the custody and use of information obtained under this section.

Acts 1987, 70th Leg., ch. 710, § 1, eff. Aug. 31, 1987.

§ 11.07. Superintendent of the Texas School for the Blind

(a) The superintendent of the Texas School for the Blind shall be a graduate of an accredited university or college and shall have a minimum of four years of educational administrative experience, at least two years of which shall have been in the education or supervisory training of the blind.

(b) The superintendent shall reside at the school and shall devote his time exclusively to the duties of his office.

(c) The superintendent is appointed by and serves at the pleasure of the governing board of the Texas School for the Blind.

Acts 1969, 61st Leg., p. 2754, ch. 889, § 1, eff. Sept. 1, 1969. Amended by Acts 1979, 66th Leg., p. 2165, ch. 827, § 5, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2310, ch. 567, § 3, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 776, § 6, eff. Aug. 31, 1987.

§ 11.071. Travel and Clothing Expenses for Certain Blind Students

Economically deprived children attending the Texas School for the Blind shall be entitled to the same clothing and travel benefits as are allowed under Section 11.051 of this code for economically deprived children attending the Texas School for the Deaf.

Acts 1975, 64th Leg., p. 2397, ch. 734, § 22, eff. June 21, 1975.

§ 11.08. Medical Services for the Texas School for the Blind

Appropriate ophthalmological or optometric services shall be provided to examine and treat all students at the Texas School for the Blind in relation to their ophthalmic needs. Other specialty medical and psychological services may be provided as specified in the student's individualized education program.

Acts 1969, 61st Leg., p. 2754, ch. 889, § 1, eff. Sept. 1, 1969. Amended by Acts 1975, 64th Leg., p. 2397, ch. 734, § 21, eff. June 21, 1975; Acts 1987, 70th Leg., ch. 776, § 7, eff. Aug. 31, 1987.

§ 11.09. Repealed by Acts 1979, 66th Leg., p. 679, ch. 301, § 8(a), eff. May 31, 1979; Acts 1979, 66th Leg., p. 1326, ch. 602, § 35(a), eff. Aug. 27, 1979

See, now, § 16.104.

§ 11.091. Diagnostic and Evaluation Center

(a) The Texas School for the Blind shall establish a comprehensive diagnostic and evaluation center and program in Austin for multiply handicapped blind children and youth. The center shall be operated on a cooperative, interagency basis under the general coordination of the Texas School for the Blind.

(b) To the maximum extent feasible and practicable, the diagnostic and evaluation center shall utilize resources available in the Austin area through the Texas Commission for the Blind, the Texas School for the Blind, the Criss Cole Rehabilitation Center, the State Department of Mental Health and Mental Retardation, the University of Texas, and other public or private organizations in the area.

(c) The purposes and functions of the diagnostic and evaluation center are:

(1) to provide thorough diagnostic studies of multiply handicapped blind children and youth, to determine the nature and scope of special education and related services needed by the individuals, which studies shall at the minimum consist of a comprehensive evaluation of pertinent medical, psychological, social, cultural, environmental, and related factors which bear on the individual's ability to benefit from educational programs and which bear on the types of special services the individual needs in order to obtain maximum benefits from educational services;

(2) to develop scientifically valid instruments, methodologies, and procedures for measuring in a useful and meaningful manner the total developmental assets and deficiencies that relate to the capacity of a multiply handicapped blind child or youth to benefit from educational programs and to prepare for a full and useful life as an independent, contributing member of society;

(3) to test, develop, demonstrate, and help implement concepts, formats, and processes for establishing, executing, periodically reviewing, and from time to time modifying individualized education programs for all blind or visually handi-

capped children or youth participating in educational programs within the State of Texas;

(4) to stimulate and assist in the development of more adequate diagnostic and evaluative resources in other communities for blind and visually handicapped children and youth throughout the state, experimenting with a variety of new and innovative methods for providing such diagnostic and evaluative services at the community level with a view toward ultimately assuring timely and convenient access to the diagnostic and evaluative resources required for developing and carrying out individualized education programs with optimum effectiveness; and

(5) to develop new and innovative methods for applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve the educational problems of blind and visually handicapped children or youth.

(d) The costs of the comprehensive diagnostic and evaluation center and program, including initial costs of establishment and recurrent costs of operation, shall be defrayed through such sums as the legislature might appropriate for these purposes, through such grants, gifts, bequests, and donations as the cooperating agencies might receive for the establishment and support of the center and program, through reasonable fees charged to organizations requesting diagnostic and evaluative services for multiply handicapped blind children and youth, and through such budgets as might be developed by the cooperating agencies with interagency contracts.

Acts 1975, 64th Leg., p. 2383, ch. 734, § 13, eff. June 21, 1975. Amended by Acts 1979, 66th Leg., p. 679, ch. 301, §§ 7, 8(a), eff. May 31, 1979; Acts 1985, 69th Leg., ch. 793, § 30, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 776, § 9, eff. Aug. 31, 1987.

§ 12.03. Special Textbooks

(a) The State Board of Education is authorized to acquire, purchase, and contract for free textbooks for the education of blind and visually handicapped public school students. In addition, for a teacher who is blind or visually impaired, the board shall provide a teacher edition in braille or large type, as appropriate as determined by the teacher, for each textbook the teacher uses in the instruction of students. For each school year, the teacher editions must be available at the same time the student textbooks become available. The textbooks shall be acquired, purchased, or contracted for as provided by Subchapter B of this chapter[1] and by any applicable rule adopted by the State Board of Education. The board may also enter into agreements providing for the acceptance, requisition, and distribution of books and instructional aids pursuant to Public Law 922, 84th Congress, or as amended,[2] for use by students enrolled in public or private non-profit schools. The agreements may include the purchase of textbooks for blind and visually handicapped students attending private, non-profit schools if no state funds except for administrative cost are involved.

(b) For purposes of this section, a blind and/or visually handicapped scholastic means and includes any pupil whose visual acuity is impaired to the extent that he is unable to read the print in regularly adopted textbooks used in the subject class.

(c) For purposes of this section, "textbook" means and includes books in Braille, large type or any other medium or any apparatus which conveys information to the scholastic or otherwise contributes to the learning process.

(d) The State Board of Education shall solicit bids for and shall purchase or otherwise acquire textbooks and supporting media to be used free of charge by students in bilingual education classes in public schools. The textbooks shall be acquired as provided by Subchapter B of this chapter and by any applicable rule adopted by the State Board of Education.

Acts 1969, 61st Leg., p. 2773, ch. 889, § 1, eff. June 14, 1973. Amended by Acts 1973, 63rd Leg., p. 1189, ch. 436, § 1, eff. June 14, 1973; Acts 1983, 68th Leg., p. 83, ch. 13, § 1, eff. April 13, 1983; Acts 1987, 70th Leg., ch. 647, § 1, eff. June 18, 1987.

[1] Section 12.11 et seq.

[2] 20 U.S.C.A. §§ 101, 102.

SUBCHAPTER N. SPECIAL EDUCATION PROGRAM

§ 21.501. Statewide Plan

The State Board of Education shall develop, and modify as necessary, a statewide design for the delivery of services to handicapped children in Texas which includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all handicapped children between the ages of three and 21. The statewide design shall include, but may not be limited to, the provision of services primarily through local school districts and special education cooperatives, supplemented by a regional delivery structure. The board shall further develop and implement a statewide plan with programmatic content which includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to handicapped students as defined in this section;

(2) facilitate interagency coordination when state agencies other than the Central Education Agency are involved in the delivery of instructional or related services to handicapped students;

(3) assess statewide personnel needs in all areas of specialization related to special education on a periodic basis and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of handicapped students who cannot be appropriately served within their resident districts;

(5) allow the Central Education Agency to effectively monitor and periodically conduct site visits of all local districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts are accurate and complete;

(6) ensure that appropriately trained personnel are involved in the diagnostic and evaluation procedures operating in all local districts and that those personnel routinely serve on local district admissions, review, and dismissal teams;

(7) ensure that an individualized education plan for each handicapped student is properly developed, implemented, and maintained in the least restrictive environment which is appropriate to meet the student's educational needs;

(8) ensure that, when appropriate, each handicapped student is provided an opportunity to participate in vocational and physical education classes, in addition to participation in regular or special classes; and

(9) ensure that each handicapped student is provided necessary related services.

Formerly § 16.104(a), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 848, § 2, eff. Sept. 1, 1987.

§ 21.502. Definitions

As used in this subchapter:

(1) "Special services" means:

(A) "special teaching," which may be provided by professional and paraprofessional personnel in the following instructional settings:

(i) resource room;

(ii) self-contained classroom, regular or special campus;

(iii) hospital or community class;

(iv) homebound or bedside;

(v) speech or hearing therapy class; or

(B) "related services," which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student's individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

(2) "Resident district" means the local school district in which the parent or other person who has the primary legal obligation for care, control, and custody of a handicapped student resides, except that if the state is managing conservator of the student, the resident district is the district within which the student is placed by the state.

Formerly § 16.104(b), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984.

§ 21.503. Eligibility Criteria

(a) The commissioner, with the approval of the State Board of Education, shall develop specific eligibility criteria based on the general classifications established by this section with reference to contemporary diagnostic or evaluative terminologies and techniques. Eligible handicapped students shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this section. Instruction shall be supplemented by the provision of related services when appropriate.

(b) The following classifications of handicapped students shall serve as the general eligibility criteria for participation in a district's special education program:

(1) "Handicapped students" means students between the ages of 3 and 21, inclusive:

(A) with educational handicaps (physically handicapped, auditorially handicapped, visually handicapped, mentally retarded, emotionally disturbed, learning disabled, speech handicapped, autistic, or multiply handicapped); and children leaving and not attending public school for a time because of pregnancy: and

(B) whose disabilities are so limiting as to require the provision of special services in place of or in addition to instruction in the regular classroom.

(2) "Physically handicapped students" means students whose body functions or members are so impaired from any cause that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(3) "Auditorially handicapped students" means students whose hearing is so impaired that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(4) "Visually handicapped students" means students whose sight is so impaired that they cannot be adequately or safely educated in the regular classes of the public schools without the provision of special services.

(5) "Mentally retarded students" means students with significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior and manifested during the developmental period such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(6) "Emotionally disturbed students" means students whose emotional condition is psychologically or psychiatrically determined to be such that they cannot be adequately and safely educated in the regular classes of the public schools without the provision of special services.

(7) "Learning disabled students" means students:

(A) who demonstrate a significant discrepancy between academic achievement and intellectual abilities in one or more of the areas of oral expression, listening comprehension, written expression, basic reading skills, reading comprehension, mathematics calculation, mathematics reasoning, or spelling;

(B) for whom it is determined that the discrepancy is not primarily the result of visual handicap, hearing impairment, mental retardation, emotional disturbance, or environmental, cultural, or economic disadvantage; and

(C) for whom the inherent disability exists to a degree such that they cannot be adequately served in the regular classes of the public schools without the provision of special services other than those provided under compensatory education programs.

(8) "Speech handicapped students" means students whose speech is so impaired that they cannot be adequately educated in regular classes of the public schools without the provision of special services.

(9) "Autistic students" means students whose disturbances of speech and language, relatedness, perception, developmental rate, and motility are such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

(10) "Multiply handicapped students" means students handicapped by any two or more of the handicapping conditions described in Subdivisions (2) through (9) of this subsection that may result in multisensory or motor deficiencies and developmental lags in the cognitive, affective, or psychomotor areas such that they cannot be adequately educated in the regular classes of the public schools without the provision of special services.

Formerly § 16.104(c), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984.

§ 21.5031. Comprehensive Assessment

A written report of a comprehensive individual assessment of a student for purposes of special education shall be completed not later than the 60th calendar day following the date on which a referral of the child for assessment was initiated by school personnel, the child's parent or legal guardian, or another appropriate individual, group, or organization.

Acts 1987, 70th Leg., ch. 902, § 1, eff. Sept. 1, 1987.

§ 21.504. Personnel Contracts

Special education personnel may be employed on a full-time, part-time, or consultative basis. Any school district may employ special education personnel on a 10-, 11-, or 12-month basis. Handicapped students' teachers, paraprofessional personnel, or related service personnel employed on an extended basis shall, during the extended period of their contract, only be engaged in pupil evaluations or in direct service delivery to handicapped students for which the disruption of continuous services may result in severe regression.

Formerly § 16.104(i), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984.

§ 21.505. Cooperatives

In accordance with rules adopted by the State Board of Education, local districts may jointly operate their special education programs. Funds to which the cooperating districts are entitled may be allocated to the districts jointly as cooperative units or cooperative funds in accordance with the cooperative districts' agreement.

Formerly § 16.104(j), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984.

§ 21.506. Contracts for Services; Residential Placement

(a) Any local district, special education cooperative, or regional education service center may contract with any public or private facility, institution, or agency within or outside of this state for the provision of services to handicapped students under rules adopted by the State Board of Education. Contracts for residential placements, including placements with the Texas Department of Mental Health and Mental Retardation and its community facilities, Texas School for the Blind, Texas School for the Deaf, and other public or private agencies, institutions, or facilities, shall be approved by the commissioner. The rules shall provide for approval of residential placement contracts only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. Either the whole or a part of a facility or program may be approved. Rules relating to the residential contract approval process shall include provisions designed to ensure that no contract is approved which:

(1) involves the delivery of unapproved services;

(2) involves the delivery of services which the district is capable of providing or is developing the capability to provide; or

(3) is not cost-effective when compared with other alternatives.

(b) Except as provided by Subsection (c) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district's local fund assignment, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program.

(c) If the state is managing conservator of a student placed in a private residential facility, the total cost of the residential placement shall be paid from state and federal funds. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the total of that portion of the contract which involves the costs of instructional and related services shall be paid from state and federal funds. If the contract involves a program or facility administered by the Central Education Agency, there is no state share paid from this program. The State Board of Education shall adopt rules governing the use of federal funds as supplemental or partial payment of the local or state share under this section.

(d) The resident district has the ultimate responsibility for providing or causing the provision of appropriate services to each handicapped student. If the district contracts for the provision of services rather than providing the services of its own accord, then that district retains the responsibility of overseeing the implementation of the student's individualized education program as well as the responsibility of an annual reevaluation of the appropriateness of the arrangement. An approved facility, institution, or agency with whom the district contracts shall assume as a part of the contract the responsibility of providing the district with periodic reports of services the student has received or will receive in accordance with the terms of the contract as well as diagnostic or other evaluative information which the district requires in order to fulfill its obligations under this subchapter. The State Board of Education shall adopt rules designed to effectuate this subsection.

Formerly § 16.104(k) to (n), amended by Acts 1975, 64th Leg., p. 877, ch. 334, § 1; Acts 1977, 65th Leg., 1st C.S., p. 19, ch. 1, § 7, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1304, ch. 602, §§ 7, 35(b), eff. Aug. 27, 1979. Renumbered and amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. VI, part A, § 1, eff. Sept. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 776, § 11, eff. Aug. 31, 1987.

§ 21.507. Support of Students Referred to Texas School for the Blind or Texas School for the Deaf

(a) For each student enrolled in the Texas School for the Blind or the Texas School for the Deaf, the school district that is responsible for providing appropriate special education services to the student shall share the cost of the student's education as provided by this section.

(b) If the student is admitted to the school for a full-time program for the equivalent of two long semesters, the district's share of the cost is an amount equal to the dollar amount of maintenance and debt service taxes imposed by the district for that year divided by the district's gross average daily attendance for the prior year.

(c) If the student is admitted for a program less than two complete semesters in duration, other than a summer program, the district's share of the cost is an amount equal to the amount that would be the district's share under Subsection (b) of this section for a full-time program multiplied by the quotient resulting from the number of full-time equivalent days in the program divided by 175.

(d) Each school district and state institution shall provide to the commissioner of education the necessary information to determine the district's share under this section. The information must be reported to the commissioner on or before a date set by rule of the State Board of Education. After determining the amount of a district's share for all students for which the district is responsible, the commissioner shall deduct that amount from the payments of foundation school funds payable to the district. Each deduction shall be in the same percentage of the total amount of the district's share as the percentage of the total foundation school fund entitlement being paid to the district at the time of the deduction, except that the amount of any deduction may be modified to make necessary adjustments or to correct errors. The commissioner shall provide for remitting the amount deducted to the appropriate school at the same time at which the remaining funds are distributed to the school district.

(e) Each district shall provide each parent or other person having lawful control of a student with written information about:

(1) the availability of programs offered by state institutions for which the district's students may be eligible;

(2) the eligibility requirements and admission conditions imposed by each of those state institutions; and

(3) the rights of students in regard to admission to those state institutions and in regard to appeal of admission decisions.

(f) The State Board of Education may adopt rules as necessary to implement this section and shall adopt rules prescribing the form and content of information required by Subsection (e) of this section.

(g) The Texas School for the Blind and the Texas School for the Deaf may provide directly to parents or other persons having lawful control of students the written information described in Subsection (e) of this section and may utilize the information obtained pursuant to Section 13, House Bill 1642, Acts of the 70th Legislature, Regular Session, 1987,[1] to fulfill to this function.

Acts 1985, 69th Leg., ch. 239, § 75, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 776, § 14, eff. Aug. 31, 1987.

[1] See note following § 11.06.

Section 77 of the 1985 Act provides:

"The amendments to the Education Code in the two immediately preceding sections of this Act apply only to students admitted to the Texas School for the Blind or the Texas School for the Deaf for the fall of 1985 and thereafter."